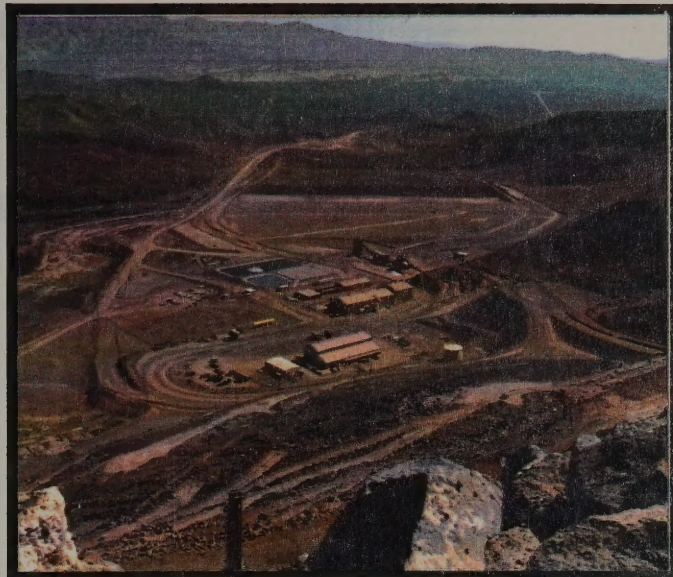




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# MINING LAW ADMINISTRATION TASK FORCE REPORT



DECEMBER 1989

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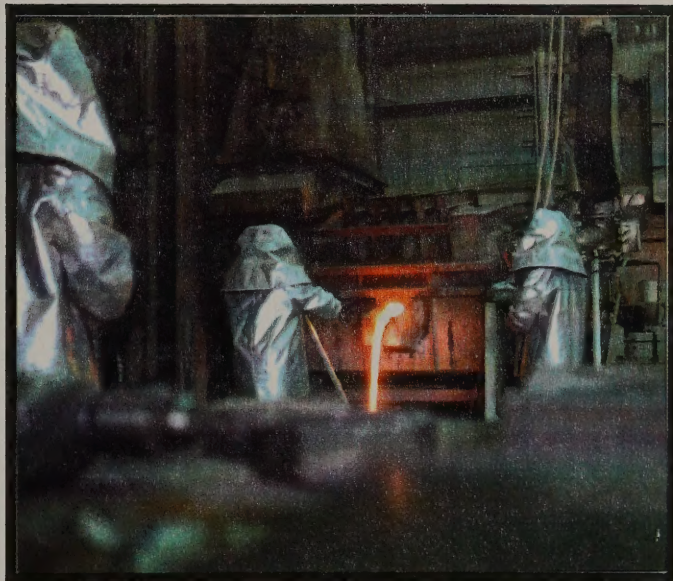








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**MINING LAW ADMINISTRATION  
DECEMBER 1989**

**STEERING COMMITTEE  
WORK GROUP**

**BUREAU OF LAND MANAGEMENT**

**MINING LAW ADMINISTRATION TASK FORCE ORGANIZATION**

**STEERING COMMITTEE**

State Directors:	Ed Spang Ray Brubaker	SD Nevada SD Wyoming	Chairperson
Ex-Officio Members:	Hillary Oden Dan Sokoloski	AD, E&MR - WO DAD, Solids - WO	
Observers:	Tom Walker Tom Leshendok	ASD, Colorado DSD, E&MR, Nevada	

**WORK GROUP**

Rick Deery                      WO-680, Leader  
Representatives from each State, PTC and Service Center

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## I. EXECUTIVE SUMMARY

This report addresses primary areas in the BLM Mining Law Administration program and documents priority actions needed to strengthen Bureau bonding, cyanide management, pre-1981 reclamation and post-1981 reclamation issues. The program includes BLM activities under the Mining Law of 1872, amendments and FLPMA.

The Mining Law Administration Program Task Force was established by the Director on January 11, 1989, and was further acknowledged at the BMT meeting in April 1989, to address significant issues on public lands under the Mining Law of 1872. The Mining Law Task Force consists of a Steering Committee composed of State Directors; Assistant Director, Energy and Minerals; Deputy Assistant Director, Solids; an Associate State Director, representing the field committee; and a DSD, Minerals, with a work group with representatives from each state. Ed Spang is the Task Force Leader.

In developing the report, the Mining Law Task Force met and reviewed recent DOI and Congressional actions on the subject. The Director's office, State Directors and field offices were canvassed and a matrix of issues was developed and prioritized. Based on extensive review and coordination within BLM, the task force identified the primary issues facing the Bureau: bonding, cyanide management, pre-1981 reclamation action and post-1981 reclamation issues. Other issues such as training and workload analysis were also reviewed but are not part of this report. Discussion papers were developed and reviewed within the Bureau by State Directors and staff.

Based on the task force recommendations and the BMT discussion of 11/7/89, the four primary issues to be implemented within the Bureau are:

1. Expand its bonding policy for exploration and mining. This includes bonding all plans and initiating stronger Bureau image enhancement and management of on-the-ground activities.
2. Develop a clear and comprehensive cyanide management program, with formal State or District cyanide management plans.
3. Initiate a positive action plan to review current reclamation practices for abandoned operations and current operating plans post 1/1/81.
4. Review policy and status of abandoned mining operations pre-1981 and address issue, after initial review of legal, liability and policy concerns by program development in each state.

The recommendations of this task force integrate with the Bureau's initiative to strengthen the I&E program in Mining Law Administration.







## II. INTRODUCTION

Issues concerning implementation and revision of the Mining Law of 1872 (BLM subactivity 4130) on public lands have within the last few years been raised to national attention.

Congressional hearings and GAO reports have increased the public debate. Industry has generally supported the retention of the Mining Law; other groups are urging reform and consider the issue "the most important piece of unfinished business on the nation's resource agenda." Public perceptions of the program range across the spectrum. The Bureau of Land Management has recognized the need to enhance management of the program.

Several specific mining law issues which have been raised to national attention include migratory bird mortalities (cyanide generally), GAO audits, the Supreme Court decision on placer mining in Alaska, associated California Desert impacts, etc. A new publication of the Mineral Policy Center, *Clementine*, was started in 1988 with goals of progressing toward reform of the 1872 Mining Law.

Simultaneously the Mining Law is governing a new western gold rush where exploration and production have greatly increased.

The U.S. is the third largest producer of gold in the world and has had the largest rate of increase of production of any country in the 1980s. Public lands are the source of much of U.S. gold production; all of the top ten U.S. producers are partially or totally from public lands. Seven of the top ten mines are on public lands (wholly or partially) in Nevada, one is in South Dakota and two are in California. Nevada, the state with the most activity, receives over 1,000 new notices and plans, primarily for precious metals, a year on public lands. The letter from the Secretary of The Interior to Congressman Miller on the migratory bird issue identified 157 mining operations managed by BLM and using cyanide to process precious metal on the public lands. California, Arizona, Oregon, Utah and Alaska have also seen recent extensive exploration activity or development on the public lands. It is expected that exploration and production of precious metals will continue strongly on the public lands.

Although gold and silver is driving most mining activities on the public lands, the Bureau manages exploration and production of many other mineral commodities on the public lands from strategic "high tech" rare earth minerals in the California Desert, to barite, copper, mercury, and other mineral commodities.

The increased gold and silver exploration and mining activity in the last few years has coincided with increased attention on Federal minerals management under the Mining Law of 1872. As a result, the Director established the Mining Law Administration Task Force by WO Instruction Memorandum No. 89-212, dated January 11, 1989, to facilitate Bureau responses to inquiries and







program needs. At the April BMT, the charter of the task force was expanded to aid the Bureau to "get ahead of the curve" in the rapidly expanding and more visible program from the national perspective. Several BLM states had already identified and were developing programs to address the new issues and development.

The major purpose of the task force is to identify the developing management issues within the Bureau program, and to recommend courses of action to the Director.

### III. BACKGROUND AND PROCEDURE

The issues in the Mining Law Administration program were addressed in an approach using several steps:

1. Identification of the Mining Law Administration issues pending within the Bureau. This included review of:

- a. Director's guidance.
- b. BLM general evaluations.
- c. Previous related BLM task force reports.
- d. State Director perspectives and State reports.
- e. GAO reports and Congressional interest.
- f. Field office concerns.
- g. Ongoing Bureau initiatives in areas such as I&E expansion.
- h. Review of public activities, journals, etc.

2. Prioritize the first group of major issues, in consultation with Director and BMT. Task force identified a matrix of issues and priority issues.

3. Each state provided data and details on the first group of major issues: bonding, cyanide management, pre-1981 abandoned operations and post-1981 operations.

4. The task force prepared four analysis/discussion papers on the key issues.

5. WO developed background data and reports in two major areas - training and 4130 workload analysis.

6. State Director consultation. Each SD or their designated representative was contacted on the four discussion papers. Review from State field offices was also solicited through the SD.

7. Review of State Director and office comments. Revisions resulted to integrate SD concerns. Final discussion papers were prepared.

8. Key issues and options for each were discussed with the Director and BMT. BMT provided further input into the recommendations.

9. This report is prepared to document task force recommendations and solicit Director's decisions to strengthen the program.







The Director provided early guidance on several issues and outlined some general concerns and objectives. A new I&E initiative was generated in WO IM Nos. 90-56, 57, 58 and 59. The Director also indicated the need for the Bureau to evaluate the issues of bonding, develop continued migratory bird protection, and to be more proactive in related areas. The Director was very positive on concurrent reclamation, developing more consistency on bonding, and the I&E policy supporting on-the-ground activities. The task force leader discussed the various issues identified in a matrix of concerns developed from contacts with field offices and State Directors. These discussions assisted in setting priorities to be addressed within the program of: bonding, cyanide management, pre-1981 reclamation of abandoned operations and post-1981 operational/reclamation issues.

Based on the Director's discussion, the task force reviewed and recommended positive, proactive alternatives to each of the primary subject areas. The subjects were then developed and further evaluated at the November BMT. This report documents the recommendations in the areas of bonding, cyanide management and reclamation.

There are several remaining steps for the task force after preparation of this report:

1. Review implementation of the recommendations.
2. Continued review of remaining issues.
3. Identification of further recommendations to the Director in the program.

#### IV. INITIAL KEY ISSUES

Recommendations addressed herein are:

1. Bonding of exploration and mining under 43 CFR 3809.
2. Management of mining operations utilizing cyanide.
3. Current reclamation practices and operations abandoned since 1981.
4. Abandoned mining and exploration activities pre-1981.

Upon review of the issues and background data, it was concluded that the program needs to be strengthened to meet BLM responsibilities, that BLM needs to be perceived more by the public as being "in front" of the concerns and the various proposals needed to mesh with the I&E initiative and the 4990 fees issues. The following are summaries of the input collected and evaluated.

#### V. BONDING

Bonding has two principle uses: it can be used as a screening mechanism for industry and it can be used as a form of financial assurance to guarantee performance or as a last resort have the government reclaim any site left unreclaimed.







Bonding can also be accomplished under the regulations by State agency bonding in lieu of Federal bonds if such bonding is conducted under a formal Federal-State MOU and meets the basic regulation requirements. States such as Colorado, Montana and Wyoming carry out certain bonding requirements on the public lands; States such as Nevada have new laws which will provide for Federal-State cooperation and bonding on public lands. Consistency varies by State and specific law requirements.

There has been considerable debate about the effectiveness of bonding as a source of funding reclamation. Alternatives to bonding or especially full bonding include increased inspection presence, increased concurrent reclamation practices and close coordination with State agencies. All these practices are also being strengthened by BLM in current policy making.

In those incidents related to hazardous wastes, bonding for exploration and mining operations appear to have some question of effectiveness in providing coverage to limit the liability of the Federal government. Upfront awareness and sound plans, as well as maintaining good mining and reclamation practices, are the most effective management tools.

The discussions developed for bonding are categorized by Bureau actions needed in the short term and actions in the long term.

#### Short-term Issues:

1. Keep or slightly modify existing policy.
2. Accept less than full or 100 percent bonding. The bonding process would be used as a screen rather than full guarantee.
3. Accept only 100 percent bonding.
4. Emphasize incremental or phased bonding for operations.
5. Increase the short-term bonding alternatives and opportunities, e.g., add new instruments.

#### Long-term Issues:

1. Revise the guidance to bond all operations. This may include changing the threshold requirements for plans.
2. Revise the guidance to bond all activities; notices and plans.
3. Revise the guidance by formal notice and proposing various alternatives.
4. Provide for acceptance of more bonding sources. This would require working with other Interior agencies and developing legislative proposals.







## VI. CYANIDE MANAGEMENT

Cyanide management is fast becoming more important to BLM. The basic requirements that affect such operations are in 43 CFR 3809 which require measures to control toxic materials and the operator to meet all Federal and State requirements. There is a need for BLM regulations/guidance specific to cyanide, although some State Handbooks exist on cyanide guidance. The gold and silver mining industry primarily relies on a cyanide process for extracting gold and silver from ores, by heap leaching and milling.

Issues concerning cyanide, e.g., migratory bird mortalities, have received intense local and national publicity. An ongoing GAO audit is reviewing Federal (BLM and FS) practices and policy for managing cyanide operations. This audit is expected to continue into CY 1990. GAO auditors have raised issues in the field on BLM inspection practices and inspector expertise. There is continued interest on the issue in the field. New industry/environmental symposiums will continue dialogue on enhancement and understanding of cyanide management.

The states vary in their regulation of cyanide and mining operations. Some states such as Idaho and Nevada have detailed requirements, e.g., double lined ponds and closure of leached pads by flushing to reduce cyanide content less than 0.2 mg/l WAD cyanide. Other states treat new operations on a case-by-case basis without specific requirements. BLM State coordination also varies; however, BLM essentially (by formal MOU in states such as Nevada, Idaho, Montana, etc.) tiers on State requirements and standards. BLM guidance in State handbooks also vary.

Cyanide associated with mining is not considered a hazardous waste under RCRA; however, it does fall under CERCLA. EPA is proposing, in 1990, new regulations to regulate mining wastes and cyanide. The new Bureau guidance in inspection and enforcement emphasizes cyanide and requires inspection of operations utilizing cyanide at least four times a year.

The Bureau has made much progress in addressing the migratory bird mortality issue due to cyanide. While there have been major past incidents, the Federal agencies working with State agencies and industry are in the process of solving the problem. Several BLM offices have detailed mitigating or protective measures and strong reporting programs.

The major discussion areas:

1. Keep the issue local and state specific.
2. Develop a Bureau Cyanide Management Policy and Management Guidelines with a solid public relations effort. Guidelines would include general performance standards policies and procedures and would emphasize cooperation where states have cyanide and mining regulations.







3. Develop State or DO cyanide management plan which addresses I&E, safety, wildlife, contingency, etc.

4. Delay efforts pending GAO audit.

5. Take no action.

6. Other opportunities.

a. BLM develop internal technical cyanide guidelines independent of State requirement.

b. Add a cyanide expert(s) to Bureau at DSC, WO or key states.

## VII. POST-1981 RECLAMATION

The Federal Land Policy and Management Act (FLPMA) of October 21, 1976, amended the mining laws by directing the Secretary of the Interior to take any action necessary to prevent unnecessary and undue degradation of the public lands. The final 43 CFR 3809 rulemaking requires mining claimants to complete reclamation on Federal lands administered by the Bureau during and upon termination of exploration and mining activities under the mining laws. This rulemaking pertains to locatable minerals such as gold, lead, silver, uranium and bentonite. All exploration and mining related disturbances following January 1981 must be reclaimed. The 43 CFR 3809 rules were promulgated on 1/1/81. This date is recognized as the threshold identifying primary Bureau responsibilities; however, for certain issues there may be a question of other dates being applicable, such as date of proposed rulemaking.

The BLM has been managing accelerating exploration and mining activities under FLPMA and the Mining Law of 1872. Since 1981 BLM has experienced several "boom" years for uranium, bentonite, other minerals during the late 1970s and early 1980s, and gold and silver during the mid and late 1980s. Public interest group involvement and media attention has increased. Several General Accounting Office (GAO) investigations of the 3809 Program questioned BLM reclamation activities.

Many BLM offices have been developing drafts or already have MOUs with State agencies to efficiently administer and avoid duplication on reclamation and mining issues. The WO has fostered the development of BLM State-by-State surface management handbooks, several of which contain regional guidance on issues such as reclamation standards and protection of wildlife and other resources.

Several issues have been raised internally and externally regarding reclamation under the BLM's 43 CFR 3809 regulations. The regulations include general performance standards and keys on implementing goals for prevention of unnecessary or undue degradation.







Questions of reclamation are interrelated with many of the Bureau's multiple use programs and specific program areas such as hazardous materials, need to be closely coordinated. Several recent BLM reports indicate a need to expand training and information transfer of other resource protection efforts and reclamation successes.

Some areas which have been raised within BLM include:

- National reclamation policy need
- Adequacy and consistency of reclamation standards
- Interagency cooperation/coordination
- NEPA relationships
- Land use planning
- Adequacy of the 5-acre threshold for Notices
- Review of specific reclamation standards such as concurrent reclamation and post-mining land use
- Review of consistency in reclamation practices among States

There are three general types of post-1981 mining disturbances that exist on the public lands.

1. Mining disturbances that have active or inactive mining and/or exploration with a responsible operator.
2. Mining disturbances that are considered abandoned where the operator can be located, but has no intent of completing reclamation and has reclamation bonds to attach.
3. Orphan mine land operations having no responsible operator.

To effectively manage these general types of situations, there is a need to clarify statewide and/or regional reclamation policies. Specific examples of this situation include the need for a bureauwide reclamation goal statement, and establishing common standards for consideration during bond release.

A small number of post-1981 unreclaimed exploration/mining disturbances are located on public lands. These disturbances are unreclaimed because of operator bankruptcy, extended inactivity with the operator location unknown and claim abandoned and void, or neither the operator nor the claimant is financially able to complete the necessary reclamation and there is no reclamation bond available. Policy clarification will assist in this area.

Further, emphasis should be placed on Supplemental Planning Guidance (SPG) for the locatable minerals management to enhance the integration of the program into the total Bureau land use planning effort. The SPG provides guidance for integrating the 3809 Program goals and objectives into the total scheme of land use planning decisionmaking.







The major discussion areas to manage the post-1981 operations and abandoned operations are:

1. Establish a reclamation action program for addressing post-1981 exploration/mining disturbances. The following is a list of actions suggested to mitigate disturbances resulting from unreclaimed exploration/mining activities.

a. Conduct a BLM file inventory of authorized operations to categorize active, inactive, abandoned, and orphan operations.

b. Develop a plan for field inventory of priority disturbances based upon the file inventory and schedule the inspection of identified high priority disturbances.

c. Conduct a field inventory of priority disturbances and document the need for mitigation/reclamation.

d. Develop a plan for reclamation of disturbances:

1) Establish priorities based on:

- Human life and safety concerns
- Serious environmental degradation
- Public perception of environmental concerns
- Other unacceptable reclamation situations
- Land Use Plan requirements

2) Identify a reclamation proposal for reclaiming disturbance by using criteria such as claimant liability.

3) Combine d. 1 and 2 with other program needs to finalize recommended actions.

2. Develop the SPG to further integrate locatable mineral development and reclamation issues into the Bureau planning system.

3. Expand reclamation policy guidance in the 3809 regulations to include a requirement for describing an acceptable "end land use," for concurrent reclamation, for the operator to develop a process for monitoring reclamation progress, and for each BLM office to develop further performance standards based on local conditions for use when evaluating reclamation success.

4. Generate guidance for developing performance standards to be used on a regional basis for determining when the reclamation bond should be released.

5. Establish a reclamation liability contingency fund. This fund would be used to complete reasonable reclamation on existing abandoned or orphaned exploration/mining-related disturbances on Federal lands. Work with legislation to develop a reclamation contingency fund that is user funded similar to the mining claim recordation fees.







### VIII. PRE-1981 RECLAMATION

The Western States have been impacted by precious and base metal mining in the 140 years since they were opened by prospectors and miners in the early gold rush days of California, Colorado, and Nevada. The mineralized belts of the West have been developed with old Mining Districts existing to the present time. The exploration and mining took place on patented and unpatented mining claims. Some of this disturbance was abandoned unreclaimed.

BLM has a varied national program for systematically inventorying, evaluating, and reclaiming mining law operations which were abandoned prior to passage of the surface management regulations in 1981. The Federal Land Policy and Management Act of 1976 (FLPMA) mandated the Secretary of the Interior to establish surface management regulations to prevent unnecessary or undue degradation of the public lands from operations under the 1872 Mining Law.

The total extent of historical disturbance and open hazards is not known; however, one indication of magnitude can be obtained from a 1988 GAO report entitled "An Assessment of Hardrock Mining Damage." This report estimates that 160,000 acres of unreclaimed historic disturbance exists on public lands administered by BLM and the FS. Some State inventories exist that indicate that the GAO estimates as to total disturbed acres are high.

Although an additional inventory would provide BLM with a more accurate total number of abandoned mine sites and total disturbance existing on public lands, certain State Abandon Mine Lands (AML) inventories provide insight into the potential magnitude Bureauwide.

The State Abandon Mining Lands (AML) programs through OSM have been able to conduct inventories and develop prioritization for closure and reclamation of the most hazardous of the sites. To date, these States have mitigated fairly substantial numbers of abandoned mine sites.

Land ownership patterns of historic mining areas are complex and generally include FS, BLM and private lands (generally patented under the 1872 Mining Law). Physical hazards do exist. The increased use of BLM lands increases the potential liability for accidents resulting from the physical hazards left by certain unreclaimed operations. There are several legal questions as to exactly what liability BLM has for such abandoned sites. Several western states have developed inactive mine reclamation programs in recent years using coal fees or other funds. Although some BLM sites have been reclaimed under these programs, priority is generally given to hazards on private lands. The programs are administered by the Office of Surface Mining, Reclamation and Enforcement (OSMRE).







Mined lands are considered abandoned when no responsible party can be located and identified, and correcting resource and safety problems becomes the responsibility of the BLM. Although a mining claim holder is not liable for reclamation of operations abandoned prior to 1981, case law generally holds a claimant responsible for maintaining any improvements. Several State laws hold claimants or operators responsible for public safety and mitigating measures.

Major discussion areas:

1. Keep Existing Policy.

This position would result in the Bureau establishing a program for review and mitigation of pre-1981 abandoned mine lands. Those sites with existing mine-land reclamation programs would continue to have State government inventory lands and the state would determine whether sites on public lands were mitigated. Participation by BLM would generally be minimal and would vary on a state-by-state basis.

2. Strengthen Existing Policy.

This would maintain the Bureau's existing policy but would make maximum use of existing State mine land reclamation programs. Individual BLM offices would more actively support State efforts to inventory abandoned mine lands. BLM would maximize coordination and cooperation with state programs.

3. Change Existing Policy

Change in policy would involve development of criteria to prioritize sites for conducting the inventory of abandoned mine sites on BLM administered land, development of criteria to rank the sites so that priorities for mitigation can be developed, and establishment of procedures for working with the Department, OSM and the individual states to utilize existing and future funding sources to assure cleanup of sites posing serious public safety or environmental risks.

Should the Bureau choose to change the existing policy, a key consideration could involve the development of new funding sources to allow mitigation of serious problems caused by pre-1981 abandoned mine lands. Several suboptions would be evaluated including establishing an interagency agreement with OSMRE directed toward reclamation of non-coal lands, supporting and utilizing HR 2604 which would establish a reclamation trust fund, or establishing a fee program through legislation that could be used solely for mitigation of sites on BLM land.

Regardless of the direction selected, any abandoned mine sites where BLM has liability could require long-term monitoring and a program would need to be developed and implemented. In addition, the BLM's authority to require a current mining claimant to take action to safely maintain all workings on the claim should be clarified. Increased enforcement of the 43 CFR 3809 regulations, in this regard, should be emphasized.







*Run each  
New plan in to  
NSD before  
committing to  
Bonding!*

*NSD would  
like us to come in  
before Refunding a Bond  
exception still less  
than 5 areas!*

12

## IX. RECOMMENDATIONS

The options and recommendations were presented to the BMT on November 7, 1989. The following are the consensus recommendations developed by the task force in concert with the BMT:

### Bonding

- Although bonding is one of several surface management tools, there has been sufficient Bureau experience, perception, and outside review to support a major strengthening of the bonding program. The policy should balance the goal of financial assurance with traditional goals of exploration and development. The Bureau bonding policy needs strengthening and additional guidance to facilitate implementation of the policy.
- Certain issues which impact rulemaking and possible legislation need further review and discussion, but the overall thrust of the Bureau should be clear and strong. For exploration especially, additional requirements are needed but within reason.
- Consistency is to be strived for on a national basis; however, the complexity of the issue as it applies to regional characteristics and State relationships will necessitate exceptions, but exceptions based on sound Bureau guidance.
- Bond all plans of operation. Consideration should be given to the definition in the previous policy and any needed exceptions.
- Bonding may be for less than required to totally reclaim a site. Guidance/criteria can consider a range of factors, e.g., compliance records, State relationships, etc., in setting these amounts. Bonding may be used as a screen and for financial security.
- Provide for incremental or phased bonding. This correlates well with the Bureau's concurrent reclamation emphasis and industry and state preferences, where such incremental bonding is feasible.
- Insure State coordination and cooperation in setting national and statewide bonding policy.
- Specific implementation requirements include to grandfather existing operations but addressing bonding in new plans, significant amendments or when undue disturbance or non-compliance is occurring to the detriment of Land Use Plans and multiple uses.







- BLM to initiate action and review needed legislation and rulemaking to strengthen the program by:
  - a. Reviewing the 5-acre threshold or alternate ways to address notice level operations.
  - b. Reviewing the regulations to consider positive changes affecting bonding such as increase the number of liable instruments, e.g., letters of credit, etc.
  - c. Considering future legislation to resolve bonding availability. Could be considered as an Departmentwide effort with OSM.
- Insure an appropriate outreach in the development of policy and guidance of this important aspect of the program.

#### Cyanide Management

The public perception and Bureau experience has indicated a need to intensify the Bureau's cyanide management responsibilities and actions. Although several states have stepped out to resolve certain aspects of the issue, BLM needs a nationwide policy and strengthened field management. There are ongoing reviews of BLM's actions in the public forum and by GAO.

- BLM needs to pull together all positive actions nationwide and develop a consistent management approach. Good management in the present can solve many future concerns, especially as to RCRA and CERCLA; however, the Bureau needs to closely monitor and interact with EPA on future related rulemaking.
- Develop cyanide management program guidance and address the issue on public lands from permitting the mine to closure. Should interrelate to I&E effort.
- Develop cyanide management plans at the field level to address the full spectrum of management such as LUP objectives, permitting, standards, guidance, inspection and enforcement, coordination with the state, adequate plan data, NEPA content, closure, contingency actions for spills, reporting, etc. These will include guidance on BLM actions and responsibility.
- Coordinate plans and actions with state regulatory authorities that have specific responsibility for cyanide management at mining operations.
- Develop cyanide experts in BLM to provide on-the-ground technical expertise.
- Take action in support of the management program and management plans to:
  - a. Develop further cyanide guidance.
  - b. Increase upfront education of public.
  - c. Develop adequate training and education for BLM employees.







## Post-1981 Reclamation

Major issues in the post-81 reclamation area included consistency and resources for the on-the-ground workload. With the new appropriations initiative more resources from claim fees will be returned to the field offices. The Bureau needs to review and strengthen its policies and standards for reclamation. Major components of the overall surface management program, which need to be addressed, are management of unreclaimed disturbances on Federal lands since BLM had "responsibility" under 43 CFR 3809 and guidance regarding adequacy of active operations under the regulations.

- Initiate a positive action plan to review and identify needed actions for operations since 1/1/81. Such a plan should consider:
  - a. Inventory of all post-1981 actions.
  - b. Categorize and prioritize needed action for each case, e.g., for abandoned operations, hazards, safety, etc., and for active operations. Require reclamation as concurrently as possible, or as required and ensure adequate migratory bird protection measures are implemented, etc.
  - c. Evaluate needed action and impacts.
  - d. Develop strategy to implement the reclamation policies and identified issues taking into account:
    - 1) Capability of BLM for pre-1981 reclamation issues
    - 2) LUP objectives
    - 3) Congressional, litigation directions
    - 4) Departmental and Bureau guidance
    - 5) All remaining points under this recommendation on post-1981 reclamation
- Simultaneously, with development of an action plan, the Bureau needs to review and develop guidance and standards inherent to the new initiatives. This includes:
  - a. Emphasis on concurrent reclamation.
  - b. Priority of not letting backlogs develop.
  - c. Development of performance standards for bond release and other needs of newer policies.
  - d. Update hardrock Special Program Guidance (SPG) in the normal course of update planning.







### Pre-1981 Reclamation

Both BLM and GAO have identified some abandoned mining operations (unclaimed/no operator/no chance of renewed operations) on the public lands. There are however, major policy, budget, program, and perhaps legislative issues which necessitate management of these abandoned sites. State programs and cleanup actions need to be fully considered.

- The Bureau needs to place emphasis on coordination with State, Federal, private and congressional concerns/interests.
- Review BLM's current legal and liability positions in concert with past administrative and legal decisions.
- After review of legal, liability and other concerns such as GAO audits, expand its current approach (but within current priorities) with added emphasis:
  - a. State program thrusts and cooperation.
  - b. Public safety.
  - c. Hazards.
  - d. Effects on sensitive areas.
  - e. Any CERCLA or hazardous waste issue.
- Follow and support legislative proposals as sources of funding to cleanup any such sites on the public lands.

### X. IMPLEMENTATION PLAN

These recommendations will require considerably more detailed input to implement. The suggested policy implementing office in the organization is WO (600). In keeping with the Director's concept of management, it is recommended that WO emphasize policy and general direction. The more specific implementation should occur in the field through use of work groups, individual BLM State coordination with State governments, etc.

Several of these recommendations have need to be implemented in the immediate future. For example, actions on bonding and cyanide management plans are key phases of the program.

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